

FISCAL NOTE

HB 252 - SB 230

March 7, 2007

SUMMARY OF BILL: Increases penalty for the following sex offenses committed multiple times by the same offender: aggravated sexual battery; statutory rape by an authority figure; sexual battery by an authority figure; solicitation of minor to commit sex offense; solicitation of minor to perform sex acts; or aggravated statutory rape. Categorizes the offender as a “child sexual predator.”

ESTIMATED FISCAL IMPACT:

Increase State Expenditures - \$2,036,900 / Incarceration*

Assumptions:

- Based on a sampling of offenders admitted in FY05, there were 54 admissions to Department of Correction (DOC) for sexual battery offenses and 14 for sexual battery by an authority figure offenses. This estimate assumes the same ratio (20.6 percent) would apply for statutory rape. In FY06, there were 91 admissions to DOC for the Class B offense of aggravated sexual battery. This estimate assumes that 20 percent (18) of those involved a victim less than 13 years of age. Forty-four percent of those (8) would be for second or subsequent convictions and the offender would serve an additional 1.2 years (an increase from 6.8 years to 8.0 years) as a result of this bill.
- According to the U.S. Census Bureau, population growth in Tennessee has averaged 1.09 percent per year for the past 10 years. Population growth will result in one additional offender. According to DOC, the average operating cost per inmate per day for calendar year 2007 is \$60.16.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 9 offenders in the tenth year serving an additional 1.2 years. The cost per inmate at 6.8 years is \$149,419.39 (\$60.16 x 2,483.70 days). The cost per inmate at 8.0 years is \$175,787.52 (\$60.16 x 2,922 days). The additional cost of increasing the average sentence length from 6.8 years to 8.0 years is \$26,368.13 (\$175,787.52 - \$149,419.39). The total additional operating cost for 9 offenders is \$237,313.17 (\$26,368.13 x 9).

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- Under existing law, statutory rape by an authority figure is a Class C felony offense and persons convicted of this offense are not eligible for probation or judicial diversion. In FY06, there were 122 persons admitted for statutory rape and 25 ($122 \times 20.6\%$) would be charged with the Class C felony of statutory rape by an authority figure. Forty-four percent of those (11) would be for second or subsequent offenses and the offender would serve an additional 2.1 years (an increase from 0.9 years to 3.0 years). Population growth of 1.09 percent per year will result in one additional offender in the tenth year as a result of this bill. Maximum cost in the tenth year is based on 12 offenders serving an additional 2.1 years. The cost per inmate at 0.9 years is \$19,776.40 ($\60.16×328.73 days). The cost per inmate at 3.0 years is \$65,920.32 ($\$60.16 \times 1,095.75$ days). The additional cost of increasing the average sentence length from 0.9 years to 3.0 years is \$46,143.92 ($\$65,920.32 - \$19,776.40$). The total additional operating cost for 12 offenders is \$553,727.04 ($\$46,143.92 \times 12$).
- In FY06, there were 24 admissions for sexual battery by an authority figure. Estimate assumes 44 percent of those (11) would be for second or subsequent offenses and offenders would serve an additional 2.1 years (an increase from 0.9 years to 3.0 years). Population growth of 1.09 percent per year will result in one additional offender in the tenth year as a result of this bill. Maximum cost in the tenth year is based on 12 offenders serving an additional 2.1 years. The cost per inmate at 0.9 years is \$19,776.40 ($\60.16×328.73 days). The cost per inmate at 3.0 years is \$65,920.32 ($\$60.16 \times 1,095.75$ days). The additional cost of increasing the average sentence length from 0.9 years to 3.0 years is \$46,143.92 ($\$65,920.32 - \$19,776.40$). The total additional operating cost for 12 offenders is \$553,727.04 ($\$46,143.92 \times 12$).
- In FY06, there were four admissions for solicitation of a minor. DOC assumes that two of those were for solicitation of a minor to commit sex offenses and a second or subsequent offense and two were for solicitation of a minor to perform sex acts and a second or subsequent offense. DOC estimates that one person would be convicted of a Class C felony offense of solicitation of a minor to commit sex offenses and would serve an additional 2.1 years (an increase from 0.9 years to 3.0 years). The cost per inmate at 0.9 years is \$19,776.40 ($\60.16×328.73 days). The cost per inmate at 3.0 years is \$65,920.32 ($\$60.16 \times 1,095.75$ days). The additional cost of increasing the average sentence length from 0.9 years to 3.0 years is \$46,143.92 ($\$65,920.32 - \$19,776.40$). DOC estimates that one person would be convicted of a Class B felony offense of solicitation of a minor to perform sex acts and would serve an additional 5.6 years (an increase from 2.4 years to 8.0 years). The

cost per inmate at 2.4 years is \$52,736.26 (\$60.16 x 876.60 days). The cost per inmate at 8.0 years is \$175,787.52 (\$60.16 x 2,922 days). The additional cost of increasing the average sentence length from 2.4 years to 8.0 years is \$123,051.26 (\$175,787.52 - \$52,736.26).

- The offense of statutory rape by an authority figure was enacted in 2006. Since there are not sufficient data on this offense, DOC is utilizing data regarding sexual battery and sexual battery by an authority figure.
- Based on a sampling of offenders admitted to DOC during FY05, 35 persons would be convicted of the Class D felony offense of aggravated statutory rape. 44 percent of those (15) would be for a second or subsequent offense and the offender would serve an additional 1.4 years (an increase from 0.6 years to 2.0 years). Population growth of 1.09 percent per year would result in two additional offenders in the tenth year as a result of this bill. The maximum cost in the tenth year is based on 17 offenders serving an additional 1.4 years. The cost per inmate at 0.6 years is \$13,184.06 (\$60.16 x 219.15 days). The cost per inmate at 2.0 years is \$43,946.88 (\$60.16 x 730.50 days). The additional cost of increasing the average sentence length from 0.6 years to 2.0 years is \$30,762.82 (\$43,946.88 - \$13,184.06). The total additional operating cost for 17 offenders is \$522,967.94 (\$30,762.82 x 17).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with a large initial "J" and "W".

James W. White, Executive Director